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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,954	07/11/2003	Tsutomu Takahashi	1767-117	2150
23117	7590	07/26/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			BAYAT, ALI	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/616,954

Applicant(s)

TAKAHASHI ET AL.

Examiner

Ali Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-14, 17 and 19-31 is/are rejected.
- 7) ☒ Claim(s) 15, 16, 18, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/11/03 and 12/10/03 7/31/03

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-14,17 and 19-31 is rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki (US 6,697,567).

In regard to claims 1 and 20 Suzuki provides for a memory for storing the encoding rates of the encoder at a plurality of different times (col.9 lines 5-16, note storage medium 31); and a control circuit (Fig.9 element 24, col.9 lines 12-20) for calculating an average encoding rate based on the stored encoding rates (Fig.4 element 53, col.9 lines 29-38) and controlling the encoding rate of the encoder based on the calculated average (Fig.4 element 54, col.10 lines 1-7).

With regard to claims 2 and 21 Suzuki provides for an encoding rate controller, wherein the control circuit controls the encoding rate by changing the quantization scale of a data quantizing device whose output is coupled to the encoder (Fig.4 element 54, col.10 lines 1-7).

As to claims 3 and 22 Suzuki provides for an encoding rate controller, wherein the control circuit controls the encoding rate to adjust the calculated average encoding toward a target value (Fig.4 element 53, col.9 lines 29-38).

In regard to claims 4 and 23 Suzuki provide for an encoding rate controller, wherein the control circuit determines whether a current encoding rate exceeds a maximum encoding rate and further controls the encoding rate based on the determination (Fig.15 element 3a, col.14 lines 10-18).

With regard to claims 5 and 24 Suzuki provides for an encoding rate controller, wherein the control circuit determines whether decoding buffer overflow or underflow will result at the current encoding rate and further controls the encoding rate based on the determination (Fig.15 element 3a, col.14 lines 10-18).

As to claims 6-8 and 25-27, Suzuki provides for an encoding rate controller, wherein the control circuit determines whether the calculated average rate is greater than an upper value or less than a lower value and controls the encoding rate based on the determination (col.14 lines 10-18, Fig.15 see 32a and 3c).

In regard to claims 9 and 28, Suzuki provides for an encoding rate controller, wherein the control circuit determines a rate of change of the encoding rate and further controls the encoding rate based on the determination (col.3 lines 45-52).

With regard to claim 10, Suzuki provides for a data quantizing device (Fig.1 element 11); an encoder for encoding data quantized by the data quantizing device (Fig.1 element 13); and an encoding rate controller (Fig.1 element 24) for controlling the quantization scale of the data quantizing device (Fig.1 element 25), wherein the encoding rate controller comprises: for a memory for storing the encoding rates of the encoder at a plurality of different times (col.9 lines 5-16, note storage medium 31); and a control circuit ( Fig.9 element 24, col.9 lines 12-20) for calculating an average encoding rate based on the stored encoding rates ( Fig.4 element 53, col.9 lines 29-38) and controlling the quantization scale based on the calculated average ( Fig.4 element 54, col.10 lines 1-7).

As to claims 11 and 19, Suzuki provides for a data encoding method/Apparatus, wherein data encoder encodes video data (col.6 lines 33-38, see MPEG system).

In regard to claims 12 and 29, Suzuki provides for an encoding rate controller for controlling the encoding rate of an encoder (Fig.4 element 24), the encoding rate controller comprising a control circuit (Fig.4 element 24) configured to perform a first encoding rate control process for a first portion of a signal supplied to the encoder (Fig.5 element R11, col.9 lines 52-59) and a second, different encoding rate control process for a second, different portion of the signal (Fig.5 element R12, col.9 lines 60-67).

With regard to claims 13 and 30, Suzuki provides for an encoding rate, wherein the first signal portion (I-picture, col.6 lines 30-38) temporally precedes the second signal portion (B-picture, col.6 lines 30-38).

As to claims 14 and 31, Suzuki provides for an encoding rate controller, wherein

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the first signal portion is a predetermined number of groups of pictures (I-picture, col.6 lines 30-38).

In regard to claim 17, see the rejection of claim 12. It recites similar limitation as claim 17. Except for a data quantizing device (Fig.1 element 11); an encoder for encoding data quantized by the data quantizing device (Fig.1 element 13); and an encoding rate controller for controlling the quantization scale of the data quantizing device (Fig.1 element 24). Hence it similarly analyzed and rejected.

***Allowable Subject Matter***

2. Claims 15-16, 18 and 32-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Contact Information**


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 571-272-7444. The examiner can normally be reached on M-F 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ali Bayat *A.B.*  
Patent Examiner  
Group Art Unit 2625  
7/14/05

  
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PRIMARY EXAMINER